

**ZONING BOARD OF APPEALS**

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ZBA 2010-31

Petition of Jennifer & Mark Lee
10 Waban Street

Pursuant to due notice, the Special Permit Granting Authority held a Public Hearing on Thursday, May 6, 2010 at 7:30 p.m. at the Town Hall, 525 Washington Street, Wellesley, on the petition of JENNIFER & MARK LEE requesting a Special Permit/Finding pursuant to the provisions of Section XVII and Section XXV of the Zoning Bylaw that construction of an 11 foot by 24.7 foot second story addition over an existing deck, with less than required left side yard setbacks, at 10 WABAN STREET, in a 10,000 square foot Single Residence District, shall not be substantially more detrimental to the neighborhood than the existing nonconforming structure.

On April 16, 2010, the petitioner filed a request for a hearing before this Authority, and thereafter, due notice of the hearing was given by mailing and publication.

Presenting the case at the hearing was Jennifer Lee (the "Petitioner"), who said that they were not proposing to change the footprint of the house. She said that they wanted to add a room at the back of the house that will go on top of a deck that is already part of the house.

Ms. Lee said that the addition has been designed in conjunction with the Historic District Commission.

Ms. Lee said that the proposed addition is approximately 260 square feet. She said that the neighbor on one side is a parking lot. She said that, to the best of her knowledge, her neighbors were all supportive.

The Board said that it received a letter from the neighbor at 15 Abbott Street who was concerned about loss of sunlight because of the addition. The Board said that the ridgeline of the proposed addition will be lower than the existing ridgeline. The Board said that the proposed addition would not create any additional shading or shadow on the house at 15 Abbott Street because the taller portion of the existing house would intercept the angle of the sun before the proposed addition would.

The Board discussed the addition of a window in the walk-in closet facing Abbott Street. Ms. Lee said that the original design had more windows. She said that the Historic District Commission asked them to change the design to the present configuration. She said that because it is a closet, there was no window planned there. The Board said that the Historic District Commission was more interested in having the scale repeated for the individual windows. The Board said that having a window there would help the scale of the design.

Ms. Lee said that the Historic District Commission worked carefully on the roofline design.

Ms. Lee said that the rear setback for the house at 10 Waban Street is well over the minimum. She said that they moved their fence in three feet to give the neighbors at 15 Abbott Street more room to turn their cars around.

There was no one present at the Public Hearing who wished to speak to the petition.

Statement of Facts

The subject premises is located at 10 Waban Street on a 10,882 square foot lot with a minimum left side yard setback of 9.5 feet and a minimum front yard setback of 20.4 feet.

The Petitioner is requesting a Special Permit/Finding that construction of an 11 foot by 24.7 foot second story addition over an existing deck, with less than required left side yard setbacks shall not be substantially more detrimental to the neighborhood than the existing nonconforming structure.

A Plot Plan dated 3/11/10, stamped by Joseph R. Sullivan, Professional Land Surveyor, Existing and Proposed Floor Plans and Elevation Drawings, prepared by Erin C. Reilly, Registered Architect, and photographs were submitted.

On February 1, 2010, the Historic District Commission voted unanimously to approve the issuance of a Certificate of Appropriateness.

On May 4, 2010, the Planning Board reviewed the petition and recommended that the request be denied.

Decision

This Authority has made a careful study of the materials submitted and the information presented at the hearing. The subject structure does not conform to the current Zoning Bylaw, as noted in the foregoing Statement of Facts.

It is the opinion of this Authority that although construction of an 11 foot by 24.7 foot second story addition over an existing deck, with less than required left side yard setbacks is intensifying a nonconformity, such intensification shall not be substantially more detrimental to the neighborhood than the existing nonconforming structure.

Therefore, a Special Permit is granted for construction of an 11 foot by 24.7 foot second story addition over an existing deck, in accordance with the submitted plot plan and construction drawings.

The Board strongly recommends that an additional window be installed in the second floor walk-in closet facing Abbott Street.

The Inspector of Buildings is hereby authorized to issue a permit for construction upon receipt and approval of a building application and detailed construction plans.

If construction has not commenced, except for good cause, this Special Permit shall expire two years after the date time-stamped on this decision.

APPEALS FROM THIS DECISION,
IF ANY, SHALL BE MADE PURSUANT
TO GENERAL LAWS, CHAPTER 40A,
SECTION 17, AND SHALL BE FILED
WITHIN 20 DAYS AFTER THE DATE
OF FILING OF THIS DECISION IN THE
OFFICE OF THE TOWN CLERK.

Richard L. Seegel, Chairman

Cynthia S. Hibbard

David G. Sheffield

cc: Planning Board
Inspector of Buildings
lrm